

E-filed on 8/1/07

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE CYGNUS TELECOMMUNICATIONS
TECHNOLOGY, LLC, PATENT
LITIGATION

No. MDL-1423
(C-04-04247 RMW)

THIS ORDER RELATES TO:

ORDER GRANTING IN PART AT&T'S
MOTION TO SHORTEN TIME

CYGNUS TELECOMMUNICATIONS
TECHNOLOGY, LLC,

Plaintiff,

v.

AT&T CORP.,

Defendant.

This court entered final judgment in the above matter on July 12, 2007. On Thursday, July 26, 2007, plaintiff filed a motion to alter or amend final judgment under Federal Rule of Civil Procedure 59(e), setting the hearing for August 31, 2007.

On Friday, July 27, 2007, defendant AT&T Corp., after unsuccessfully seeking from Cygnus a stipulation to move the briefing and hearing dates, moved pursuant to Local Rule 6-3 to shorten time on Cygnus's motion to alter or amend judgment. AT&T transmitted its motion to Cygnus via


1 email that same day. Local Rule 6-3(c) provides that a party who opposes such a motion must file
 2 an opposition "no later than the third day after receiving the motion." Cygnus timely filed its
 3 opposition on Wednesday, August 1, 2007.

4 The court has considered AT&T's motion to shorten time and Cygnus's opposition thereto.
 5 Cygnus argues that the motion was brought for an improper purpose because (1) AT&T's true
 6 motive is to shorten the length of time before it can move for attorney's fees and (2) AT&T is not
 7 actually concerned with obtaining a final appealable judgment in time for it to participate with other
 8 litigants in Cygnus's appeal to the Federal Circuit of this court's judgments in this multi-district
 9 litigation that include a finding that the patents-in-suit are invalid under the on-sale bar. The court is
 10 not persuaded that AT&T's motive is as Cygnus contends.

11 The court hereby grants AT&T's motion to shorten time in part as follows: Cygnus's reply to
 12 AT&T's opposition to Cygnus's motion to alter or amend the judgment shall be due Wednesday,
 13 August 8, 2007. Because AT&T filed its opposition to Cygnus's motion on July 27, 2007, this
 14 shortened briefing schedule gives plaintiff even more than the week generally allotted on a noticed
 15 motion to reply to an opposition – it gives Cygnus a week from the date of this order.

16 Because the court deems the motion to alter or amend appropriate for submission on the
 17 papers, it vacates the currently-scheduled August 31, 2007 hearing date and will submit the matter
 18 on the papers upon the filing of Cygnus's reply. The court will issue a ruling on or shortly after
 19 August 8, 2007.

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 21
 22 DATED: 8/1/07


 RONALD M. WHYTE
 United States District Judge

1 A copy of this order was mailed on 8/1/07 to:

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11 **Courtesy Copy:**

12 Clerk of the Panel
Judicial Panel on Multidistrict Litigation
13 Thurgood Marshall Federal Judiciary Building
One Columbus Circle, N.E.
14 Room G-255, North Lobby
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16 Counsel are responsible for distributing copies of this order to co-counsel, as necessary.
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